

Department of the Navy, DoD

§ 751.7

(g) *Personal property held as evidence or confiscated property.* If property belonging to the victim of a crime is to be held as evidence for an extended period of time (in excess of 2 months) and the temporary loss of the property will work a grave hardship on the claimant, a claim for the loss may be considered for payment. This provision will not be used unless every effort has been made to determine whether secondary evidence, such as photographs, may be substituted for the item. No compensation is allowed to a person suspected of an offense for property seized from that same person in the investigation of that offense. This also applies to property a foreign government unjustly confiscates or an unjust change in a foreign law that forces surrender or abandonment of property.

(h) *Theft from possession of claimant.* Theft from the person of the claimant is reimbursable if the theft occurred by use of force, violence, or threat to do bodily harm, or by snatching or pickpocketing, and at the time of theft the claimant was either on a military installation, utilizing a recreation facility operated or sponsored by the Department of Defense or any agency thereof, or in the performance of official duty. The theft must have been reported to appropriate police authorities as soon as practicable, and it must have been reasonable for the claimant to have had on his person the quality and the quantity of the property allegedly stolen.

(i) *Property used for the benefit of the Government.* Compensation is authorized where property is damaged or lost while being used in the performance of Government business at the direction or request of superior authority or by reason of military necessity.

(j) *Money deposited for safekeeping, transmittal, or other authorized disposition.* Compensation is authorized for personal funds delivered to and accepted by military and civilian personnel authorized by the commanding officer to receive these funds for safekeeping, deposit, transmittal, or other authorized disposition, if the funds were neither applied as directed by the owner nor returned to the owner.

(k) *Fees—(1) For obtaining certain documents.* The fees for replacing birth cer-

tificates, marriage certificates, college diplomas, passports, or similar documents may be allowed if the original or a certified copy is lost or destroyed incident to service. In general, compensation will only be allowed for replacing documents with a raised seal that are official in nature. No compensation will be allowed for documents that are representative of value, such as stock certificates, or for personal letters or records.

(2) *Estimate fees.* An estimate fee is a fixed cost charged by a person in the business of repairing property to provide an estimate of what it would cost to repair property. An estimate fee in excess of \$50.00 should be examined with great care to determine whether it is reasonable. A person becomes obligated to pay an estimate fee when the estimate is prepared. An estimate fee should not be confused with an appraisal fee, which is not compensable (see § 751.7). A reasonable estimate fee is compensable if it is not going to be credited toward the cost of repair. If it is to be credited toward the cost of repair, it is not compensable regardless of whether the claimant chooses to have the work done. When an estimate fee is claimed, the file must reflect whether the fee is to be credited.

§ 751.7 Claims not payable.

(a) *Losses in unassigned quarters in the United States.* Claims for property damaged or lost at quarters occupied by the claimant within the United States that are not assigned or otherwise provided by the Government.

(b) *Currency or jewelry shipped or stored in baggage.* Claims for lost money, currency, or jewelry shipped or stored in baggage are not payable. Coin or paper money included in collections is payable only if listed on an inventory prepared at origin.

(c) *Enemy property or war trophies.* This includes only property that was originally enemy property or a war trophy that passed into the hands of a collector and was then purchased by a claimant.

(d) *Unserviceable or Worn-Out Property.*

(e) *Loss or Damage to Property to the Extent of any Available Insurance*

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Coverage as Set Forth in § 751.26 of this part.

(f) *Inconvenience or loss of use.* Expenses arising from late delivery of personal property, including but not limited to the expenses for food, lodging, and furniture rental, loss of use, interest, carrying charges, attorney's fees, telephone calls, additional costs of transporting claimant or family members, time spent in preparation of claim, or cost of insurance are not compensable. While such claims do not lie against the Government, members should be referred to the Personal Property Office for assistance in filing their inconvenience claims against the commercial carriers (NAVSUP Publication 490, Transportation of Personal Property).

(g) *Items of speculative value.* Theses, manuscripts, unsold paintings, or a similar creative or artistic work done by the claimant, friend, or a relative is limited to the cost of materials only. The value of such items is speculative. Compensation for a utilitarian object made by the claimant, such as a quilt or bookcase, is limited to the value of an item of similar quality.

(h) *Loss or damage to property due to negligence of the claimant.* Negligence is a failure to exercise the degree of care expected under the circumstances that is the proximate cause of the loss. Losses due, in whole or in part, to the negligence of the claimant, the claimant's spouse, child, houseguest, employee, or agent are not compensable.

(i) *Business property.* Losses of items acquired for resale or use in a private business are not compensable. If property is acquired for both business and personal use, compensation will not be allowed if business use is substantial, or is the primary purpose for which the item was purchased, or if the item is designed for professional use and is not normally intended for personal use.

(j) *Motor vehicles.* Collision damage is not payable unless it meets the criteria for payment as property used for the benefit of the Government as established in § 751.6(c)(1).

(k) *Violation of law or directives.* Property acquired, possessed, or transported unlawfully or in violation of competent regulations or directives. This includes vehicles, weapons, or

property shipped to accommodate another person, as well as property used to transport contraband.

(l) *Sales tax.* Sales taxes associated with repair or replacement costs will not be considered unless the claimant provides proof that the sales tax was actually paid.

(m) *Appraisal fees.* An appraisal, as distinguished from an estimate of replacement or repair, is defined as a valuation of an item provided by a person who is not in the business of selling or repairing that type of property. Normally, claimants are expected to obtain appraisals on expensive items at their own expense.

(n) *Quantities of property not reasonable or useful under the circumstances are not compensable.* Factors to be considered are claimant's living conditions, family size, social obligations, and any particular need to have more than average quantities, as well as the actual circumstances surrounding the acquisition and loss.

(o) *Intangible Property,* such as Bankbooks, Checks, Promissory Notes, Stock Certificates, Bonds, Bills of Lading, Warehouse Receipts, Baggage Checks, Insurance Policies, Money Orders, and Traveler's Checks are not Compensable.

(p) *Property Owned by the United States,* Except where the Claimant is Responsible to an Agency of the Government other than the DON.

(q) *Contractual coverage.* Losses, or any portion thereof, that have been recovered or are recoverable pursuant to contract are not compensable.

§ 751.8 Adjudicating authorities.

(a) *Claims by Navy personnel.* (1) The following are authorized to adjudicate and authorize payment of personnel claims up to \$40,000.00:

- (i) The Judge Advocate General;
- (ii) Deputy Judge Advocate General;
- (iii) Any Assistant Judge Advocate General;
- (iv) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation); and
- (v) Commanding officers of Naval Legal Service Offices.